

Remarks

Claims 25 and 27-33 are pending in this application. Claims 26 and 34 are canceled without prejudice to Applicant's right to pursue the subject matter recited by them in one or more divisional, continuation or continuation-in-part applications. In addition, claim 25 is amended to remove the recitation "in need of antiemetic therapy." No new matter has been introduced.

Applicant respectfully submits that all of the pending claims are allowable for at least the following reasons.

A. The Double Patenting Rejection Should Be Withdrawn

On pages 2-3 of the Office Action, claims 26 and 34 are rejected under statutory double patenting over claim 1 of the U.S. Patent No. 6,242,465 ("the '465 patent") and claims 1 and 5 of the U.S. Patent No. 6,632,827 ("the '827 patent"). Without addressing the substance of the rejection, claims 26 and 34 are canceled herein solely to expedite the prosecution of this application. In view of the cancellation of claims 26 and 34, Applicants respectfully request that the rejection be withdrawn.

B. The Rejection Under Obviousness-Type Double Patenting Should Be Withdrawn

On pages 3-4 of the Office Action, claims 25-33 are provisionally rejected under obviousness-type double patenting over claims 1-6 of the '465 patent and claims 1-6 of the '827 patent. Without addressing the substance of the rejection, and solely to expedite the prosecution of this application, Applicants submit herewith a terminal disclaimer. In view of the terminal disclaimer, Applicant respectfully requests that this rejection be withdrawn.

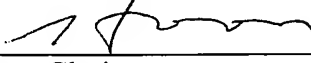
Conclusion

For the foregoing reasons, Applicants submit that all of the pending claims are allowable and should proceed to allowance.

No fee is believed due for this submission. If any fees are required, however, please charge such fee(s) to Deposit Account No. 503013.

Date October 27, 2006

Respectfully submitted,



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